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SECURITIES AND EXCHANGE COMMISSION

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

SUNWEST MANAGEMENT, INC., CANYON
CREEK DEVELOPMENT, INC., CANYON CREEK
FINANCIAL, LLC, and JON M. HARDER,

Defendants,

and

DARRYL E. FISHER, J. WALLACE GUTZLER,
KRISTIN HARDER, ENCORE INDEMNITY
MANAGEMENT LLC, SENENET LEASING
COMPANY, FUSE ADVERTISING, INC., KDA
CONSTRUCTION, INC., CLYDE HAMSTREET, and
CLYDE A. HAMSTREET & ASSOCIATES, LLC,

Relief Defendants.

Case No. 6:09-cv-6056 AA

MOTION FOR DISMISSAL
PURSUANT TO F.R.C.P. 41(a) AS TO
DEFENDANTS DARRYL E. FISCHER,
J. WALLACE GUTZLER, ENCORE
INDEMNITY MANAGEMENT LLC,
SENETET LEASING COMPANY, FUSE
ADVERTISING, INC. and KDA
CONSTRUCTION, INC.

The plaintiff Securities and Exchange Commission (“SEC” or “Commission”) hereby moves the Court to enter an order dismissing the above-captioned case against relief defendants Darryl E. Fisher, J. Wallace Gutzler, Encore Indemnity Management LLC, Senenet Leasing Company, Fuse Advertising, Inc., and KDA Construction, Inc., pursuant to F.R.C.P. 41(a)(2), which provides that an action may be dismissed at the plaintiff’s request by court order.

Although it appears from the docket that the relief defendants did not file an answer or a motion for summary judgment and F.R.C.P. 41(a) (1)(A)(i) would permit the Commission to dismiss the action against them by filing a notice of dismissal, because the relief defendants may have appeared and participated in the above action, in particular the individual defendants, Fisher and Gutzler, the SEC requests the Court issue an order. Moreover, dismissal of the action against the relief defendants is appropriate as the Receivership has recovered assets from them, which have been distributed to investors and no further action is required.

Dated: December 4, 2018

Respectfully submitted,

/s/ Sheila E. O’Callaghan
Sheila E. O’Callaghan
Attorneys for Plaintiff
SECURITIES AND EXCHANGE
COMMISSION